

ELLSWORTH COUNTY
SANITARY CODE
FOR ENVIRONMENTAL PROTECTION

CHAPTER 1

ADMINISTRATIVE PROCEDURES

1-1 AUTHORITY AND POLICY.

1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et seq. or K.S.A. 12-3301 et. seq.

1-1.2 Declaration of Finding and Policy. The Commissioners find that the provision of adequate and reasonable control over environmental conditions in the county is necessary and desirable. A sanitary code establishes standards to eliminate and/or prevent the development of environmental conditions that are hazardous to health and safety, and promotes the economical and planned development of the land and water resources of the county. For these reasons and objectives, it will be the policy of the Board of County Commissioners to adopt and amend a sanitary code to provide current regulations of practices that effect health and safety.

1-1.3 Purpose. The Purpose and intent of this chapter is to prescribe the administrative procedures to be followed in administering this sanitary code or any amendments thereto; and to prescribe rules and regulations for controlling practices to minimize health and safety hazards.

1-1.4 Title. This code shall be known and referred to as the Ellsworth County Sanitary Code.

1-1.5 Applicability. The procedures prescribed in this chapter shall be followed in administering this code and any amendments thereto.

1-1.6 Effective Date. This code shall become effective July 1, 1992.

1-2 DEFINITIONS.

The following words, terms and phrases appear in more than one chapter of this Code and thus have general application and usage. Words, terms, and phrases appropriate or applicable to specific chapters within this Code may be found in that particular chapter.

1-2.1 Administrative Agency means the entity authorized to implement the provisions of this code. The Administrative Agency for Ellsworth County is designated as the Ellsworth County Health Department.

1-2.2 Administrative Rules means those rules and regulations continued in Chapter One of this sanitary code which prescribe general procedures to be followed in the administration of the sanitary code adopted by the county.

- 1-2.3** **Authorized Representative** means any person who is designated by the Administrative Agency to administer this code.
- 1-2.4** **Board of County Commissioners** means the Board of County Commissioners of Ellsworth County, Kansas.
- 1-2.5** **Code** means any model or standard published compilation of rules in a book or pamphlet form which has been prepared by a technical association, a federal agency, this state, or any agency thereof, municipalities of this state or agency or instrumentality and any metropolitan thereof, or regional agency within this state and such codes may be specifically, but shall not be limited to: wastewater disposal, water supply systems, solid waste management, food management, swimming pools, mass gatherings, nonpoint source pollution, and underground storage tanks. (K.S.A. 12-3301)
- 1-2.6** **Hearing Officer** means an individual, appointed by the Administrative Agency to hear appeals from decisions made by the Administrative Agency relating to the administration of this code.
- 1-2.7** **Person** means an individual, corporation, partnership, association, state, or political subdivision thereof, federal, state agency, municipality, commission, or interstate body or other legal entity recognized by law as the subject of rights and duties.
- 1-2.8** **Premise** means any lot or tract of land and all buildings, structures, or facilities located thereon.
- 1-2.9** **State Department of Health** means the Kansas Department of Health and Environment.

1-3 **ADMINISTRATIVE POWERS AND PROCEDURES.**

- 1-3-1** **Right of Entry.** Representatives of the Administrative Agency shall have the power and authority to inspect for compliance with the Ellsworth County Sanitary Code.
- 1-3.2** **Permit and License.**
- a. Applications for Permits and Licenses.** Every person required by this sanitary code to obtain a permit or license shall make application for such permit or license to the Administrative Agency.
 - b. Issuance of Permit or License.** After receipt of an application as required by this code, the Administrative Agency shall begin such investigation as deemed necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within 30 days of such receipt. If the permit or license is denied, the Administrative Agency shall send the applicant a written notice and state their reasons for rejection.
 - c. Permit Nontransferable.** No permit or license required by this sanitary code shall be transferable, nor shall any fees required and paid therefore be refundable.

- d. **Permit Revocation.** All permits are subject to revocation for reasons of noncompliance or misrepresentation.
- e. **Standard Fees.** The Administrative Agency shall establish a schedule of fees for all permits and licenses required by the code, and said fees shall be paid into the Administrative Agency. The Administrative Agency shall not process any application for a permit or license until the required fee has been paid. (K.S.A. 19-3702)

1-4 NOTICES, ORDERS, APPEALS.

- 1-4.1 **Notice of Violations.** When the Administrative Agency determines that there has been a violation of any provision of the Code, notice of such violation shall be issued to the person responsible. The notice shall:

- (1) be in writing;
- (2) include a statement of why the notice is being issued;
- (3) allow a reasonable period of time for performance of any work required by the notice; and
- (4) be properly served upon the owner or agent.

Such notice shall be deemed properly served when a copy thereof has been sent by registered mail to the last known address of the owner or agent.

- 1-4.2 **Appeal for Hearing.** Any person aggrieved by any notice or order issued by the Administrative Agency under the provisions of this sanitary code may request, and shall be granted, a hearing on the matter before the Hearing Officer; provided such person shall file with the Administrative Agency within ten working days after the date of issuance of the notice or order, a written petition requesting a hearing and setting forth the grounds upon which the request is made. The filing of the request for a hearing shall operate as stay of the notice or order. Upon receipt of such petition, the Administrative Agency shall confer with the Hearing Officer and set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given a opportunity to show why such notice or order should be modified or withdrawn. The hearing shall be commenced no later than ten working days after the date on which the petition was filed; provided, that upon request of the petitioner, the Administrative Agency may postpone the hearing for a reasonable time beyond such ten-day period, when in the Agency's judgment the petitioner has submitted justifiable reason for such postponement.

- 1-4.3 **Report of Hearing.** Within ten working days after such a hearing, the Hearing Officer shall submit the findings of the hearing in writing to the Administrative Agency. The findings shall include a recommendation that the order be sustained, modified, or withdrawn. Upon the receipt of the report of the Hearing Officer, the Administrative Agency shall consider the report and issue an order, confirming, modifying or withdrawing the notice or order, and shall notify the appellant in the same manner as is provided for in sec. 1-4.1.

- 1-4.4 **Emergency Orders.** Whenever the Administrative Agency finds that an emergency exists which required immediate action to protect the public, the Administrative Agency may issue an order reciting the existence of such an emergency, specifying action to be

taken to meet the emergency. Such an order shall be effective immediately. Any person to whom such an order is directed shall comply immediately.

1-5 RECORDS.

1-5.1 Permit Applications. Application for permits or licenses required by this code shall be filed with the Administrative Agency.

1-5.2 Official Actions. A written record of all official actions taken on applications for permits and licenses required by the sanitary code shall be kept on file with the Administrative Agency.

1-5.3 Proceedings of Hearings. The proceedings of all hearings including findings and decisions of the Hearing Officer, and a copy of every notice and order related thereto shall be filed with the Administrative Agency. Transcripts of the proceedings of hearings need not be transcribed unless a judicial review of the decision is sought.

1-6 GENERAL PROVISIONS

1-6.1 Enforcement Procedure. The County Attorney shall enforce the provisions of this code and other environmental sanitation codes adopted by the county and is hereby authorized and directed to file appropriate actions for such enforcement, upon request of the Administrative Agency. Actions of injunction, mandamus, and quo waranto may be utilized for enforcement of these codes and shall be governed by the provisions of the Kansas Code of Civil Procedure.

1-6.2 Penalties. In addition to, and independently of, the enforcement procedures provided in section 1-6.1 herein, upon conviction of a violation of any provision of a sanitary code shall be deemed to be a misdemeanor and punishable by a fine not to exceed two hundred dollars (\$200) for each offense. Each day's violation shall constitute a separate offense. (K.S.A. 19-3707)

1-6.3 Waiver of Requirements. The Administrative Agency shall have the authority to grant exceptions for existing and unusual cases where compliance with the requirements of any section of this chapter is not feasible. The waiver must be requested in writing, must justify the exception, and must provide reliable data to show that such a waiver does not and will not harm the waters of the state nor create a nuisance. When these conditions are met, the Administrative Agency shall have the authority to waive the requirement by replying in writing.

1-6.4 Disclaimer of Liability. This code and other environmental sanitation codes adopted shall not be construed or interpreted as imposing upon the county or its officials or employees (1) any liability or responsibility for damages to any property, or (2) any warranty that any system installation or portion thereof that is constructed or repaired under permits and inspections required by code will function properly.

1-6.5 Separability. If any clauses, sentences, paragraph, section or subsection of this code shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional and invalid, such judgment shall not affect, repeal or invalidate the

remainder thereof, but shall be confined to the clause, sentence, paragraph, section or subsection thereof so found unconstitutional and invalid. (K.S.A. 19-3708)

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CHAPTER 2

ON-SITE WASTEWATER MANAGEMENT

2-1 PURPOSE AND INTENT.

Sewage is a potential source of disease and a hazard to the health, safety, and welfare of the public. It is the purpose of this chapter to provide minimum standards for the location, design, construction, maintenance and use of on-site wastewater systems, and the removal and disposal of materials from such facilities within the legal boundaries of Ellsworth County.

2-2 APPLICABILITY.

The provisions of this chapter shall apply to all unincorporated areas and to any premises under one ownership which is comprised of less than 640 acres in area located in Ellsworth County, Kansas.

2-3 DEFINITIONS.

2-3.1 Domestic Sewage means sewage which is normally characterized as and is similar to residential wastewater, not commercial or industrial activity, and which originates primarily from kitchen, bathroom and laundry sources, including waste from food preparation, dishwashing, garbage grinding, toilets, baths, showers and sinks of a residential dwelling.

2-3.2 Nuisance means conditions or activities which have or threaten to have a detrimental effect on the health of the public or its members.

2-3.3 Private Wastewater System means any system which is not required to hold a Kansas Water Pollution Control Permit pursuant to K.S.A. 65-165. This includes wastewater disposal systems which function by soil absorption, evaporation, transpiration, holding tanks, or any combination of the above.

2-3.4 Sanitary Privy means a facility designed for the disposal of non-water carried wastes from the human body.

2-3.5 Sanitary Service means the pumping out and/or removal of sewage, sludge, or human excreta from privies, vaults, septic tanks, or private wastewater systems; and the transportation of such material to a point of final disposal.

2-3.6 Subdivision means any tract of land that is or has been subdivided into two or more lots for the purpose of sale or building development, whether immediate or future,

including the streets, alleys, or other portions thereof intended to be dedicated for public use, and any re-division of lands.

2-3.7 Vault/Holding Tank means a water-tight receptacle for the retention of sewage either before, during or after treatment.

2-3.8 Waste Stabilization Pond means a pond designed specifically to treat sewage by natural stabilization processes under the influence of air and sunlight.

2-3.9 Wastewater System means any system along with attendant pipes and appurtenances designed and constructed to collect, store, treat, and dispose of domestic, industrial or commercial waste.

2-4 PROHIBITED PRACTICES.

2-4.1 Use of Nonapproved Private Systems. No person shall use, or cause to be used, any private wastewater system, or privy constructed after adoption of this sanitary code until it has been inspected and approved by the Administrative Agency or if it:

- a. has been enjoined as a public health nuisance by a court of competent jurisdiction; or
- b. fails to comply with the provisions of this sanitary code, and written notice thereof has been given by the Administrative Agency; or
- c. discharges wastewater onto the surface of the ground, or waters of the state; or,
- d. causes vector breeding, produces offensive odors or any condition that is detrimental to health and comfort; or,
- e. is a seepage pit.

2-4.2 Use of Private Systems Within 400 Feet of Public Sewer. No private wastewater system shall be constructed within 400 feet of an existing public sewer, unless the Administrative Agency finds that connection to such a sewer is not feasible and that a private wastewater system, meeting the requirements of this code, can be constructed on the property.

2-4.3 Location of Private Wastewater System Below Full/Flood Pool. No portion of a private wastewater system shall be located below the flood pool elevation of any reservoir or full pool elevation of any pond, lake, stream, or water supply reservoir unless written approval is obtained from the appropriate Administrative Agency.

2-4.4 Location of a Private Wastewater System Within 50 Feet of Well, Property Lines and Groundwater. No portion of a private wastewater system shall be located less than 50 feet from a water well or a line from a water well, unless the facility is of water tight construction. No sanitary sewer line, regardless of construction, shall be located less than 25 feet from a water well or from a line from a water well. No portion of a private wastewater system shall be located less than 25 feet from property lines of the premises it serves. A minimum separation of 4 feet shall be maintained between groundwater and private wastewater system.

2-4.5 Use of Private Wastewater System for Disposal of Non-Domestic Waste. Discharge of industrial or commercial waste to a private wastewater system is prohibited. Any

such systems in effect at the time of adoption of this code shall cease and desist immediately.

2-5 REQUIREMENTS FOR PRIVATE WASTEWATER DISPOSAL SYSTEMS

2-5.1 Approval of Plans. After adoption of this code no person shall develop any private wastewater system until the plans and specifications for such system have been approved by the Administrative Agency. References approved by the Kansas Department of Health and Environment may be used as guide by the Administrative Agency in reviewing and approving plans for private wastewater systems.

2-5.2 Permit. No person shall construct or modify, or permit to be constructed or modified, any private wastewater system until a permit has been issued by the Administrative Agency.

2-5.3 Suitable Site. No site shall be approved if:

- a. connection to an approved public wastewater system is feasible or the site violates the provisions of Section 2-4.0 of this code;
- b. the site contains less than three acres of land exclusive of roads, streets, or other public rights-of way or easements; or,
- c. the soil, topography, and geology do not meet the requirements set forth in Section 2-6.0.

2-5.4 Construction Approval. All private wastewater systems developed or modified after the effective date of the sanitary code must be inspected and approved by the Administrative Agency for compliance with the approved plans; and no portion of the system shall be covered or made inaccessible to inspection prior to approval.

2-5.5 Proper Maintenance and Operation. All private wastewater system shall be maintained in good working condition. Whenever the Administrative Agency shall find any private wastewater system in violation of this code, the owner and/or user shall be ordered to correct the condition.

2-6 MINIMUM STANDARDS FOR SOIL TOPOGRAPHY AND GEOLOGY.

No private wastewater system which is dependent upon soil absorption for the disposal of wastewater, shall be constructed on any lot of any size unless minimum standards for percolation rates, soil profile and depth to impervious rock or groundwater are met. These tests shall be the responsibility of the person applying for the permit. A representative of the Administrative Agency shall visit the site to observe the results of the tests. With percolation rates of one (1) inch per hour or more, a soil absorption system or other approved alternative system shall be installed. If the percolation rate is less than one (1) inch per hour, a waste stabilization pond or approved alternative system shall be installed. Special exemptions, approved by the Administrative Agency, may be issued.

2-7 REQUIREMENTS FOR PRIVIES.

2-7.1 Approval of Plans. No person shall construct or modify any privy until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.

2-7.2 Approval of Construction. No person shall use, or make available for use, any newly constructed or modified privy until the construction has been inspected by the Administrative Agency for compliance with approved plans.

2-7.3 Proper Maintenance. No person shall use, or offer for use, any privy that is not maintained in a clean and sanitary condition.

2-7.4 Location.

- a. No privy shall be installed less than 100 feet from an existing well.
- b. No privy shall be constructed or reconstructed on any premise serviced by a public water supply or on which water is delivered to any building under pressure, unless special permission for use of a privy is obtained from the Administrative Agency.
- c. No privy shall be constructed or reconstructed after adoption of this code unless it has a water-tight vault.

2-8 SANITARY SERVICES.

2-8.1 License Required. No person shall remove or transport any wastes from any private wastewater system or privy, unless that person holds a valid license from the Administrative Agency.

2-8.2 Contracting with Unlicensed Person Prohibited. No person responsible for operating a private wastewater system or privy shall contract with any person for sanitary service unless that person holds a valid license.

2-8.3 Minimum Standards for Sanitary Service Equipment. All equipment used for rendering of sanitary service shall be of watertight construction and maintained in good working condition. This ensures that all materials removed from private wastewater systems or privies will be transported to an approved point of disposal without spillage of the waste.

2-9 REQUIREMENTS FOR WASTE STABILIZATION PONDS.

2-9.1 Plans. No person shall construct or modify any waste stabilization pond until the plans and specifications for the proposed construction and/or modification have been approved by the Administrative Agency.

2-9.2 Site. Waste stabilization ponds shall be separated from other areas by distances equal to or greater than those shown in Table 2-1.

Table 2-1

Area	Minimum Separation
House it serves	100'
Other residential structures	250'
Applicant's private water supply well	50'
Property lines, including rights-of-way	100'
Public water supply well	100'
Public water transmission lines	25'
Ground water	4'

2-10 WASTEWATER SYSTEM INSTALLER AND MAINTENANCE LICENSURE.

2-10.1 License Required. No person shall repair or install a private wastewater system unless they hold a valid Wastewater System Installer and Maintenance License from the Administrative Agency. Property owners are exempt from the license requirements, but are not exempt from code requirements.

2-10.2 Application, Class, and Examination. Every person wishing to obtain a Wastewater System Installer and Maintenance License shall make application for a license at the Administrative Agency. The applicant will be notified of the next class and exam date. A fee shall be paid to the Administrative Agency for the Wastewater System Installer and Maintenance Exam. A license shall be issued upon completion of the exam with a score of 70% or higher.

2-10.3 License Fee. An annual fee shall be paid to the Administrative Agency by January 1 of each year, following the initial issuance of the Wastewater System Installer and Maintenance License.

2-10.4 Continuing Education. A requirement for continuing education is set for extended renewal of a Wastewater System Installer and Maintenance License. The Licensee must complete at least 2 hours of continuing education every five years starting at the time the first license is issued. The continuing education must be pertinent and related to wastewater. Continuing Education Units (CEU's) must be submitted to the Administrative Agency.

2-10.5 Liability Requirements. Before a license can be issued, the applicant must provide a Certificate of Insurance for liability coverage.

2-10.6 Revocation of License. A license issued under the provisions of this Chapter may be revoked for violation of any of the terms of this Code. No license shall be revoked until the license holder has been given notice in writing of the violation and reasonable opportunity to comply with the provisions of this Code.

2-10.7 Reciprocity With Other Licensing Programs: Licensure in other counties shall be reciprocal with licensure in Ellsworth County if training, exam, and passing scores are equal to or greater than those required for licensure in Ellsworth County.

2-10.8 Contracting With Unlicensed Persons Prohibited. No person responsible for operating a private wastewater system shall contract with any person for services unless

that person holds a valid permit or license to provide such services from the Administrative Agency.

2-11 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT

After adoption of this code, no person shall develop any subdivision until plans and specifications for on-site wastewater provision and/or protection have been approved by the Administrative Agency.

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CHAPTER 3

NON-PUBLIC WATER SUPPLIES

3-1 PURPOSE AND INTENT.

The provisions of this chapter are for the purpose of regulating and controlling the development, maintenance, and use of all water supplies other than public water supplies in Ellsworth County, Kansas, in order that public health will be protected and the contamination and pollution of the water resources of the county will be prevented.

3-2 APPLICABILITY.

The provisions of this chapter shall apply to all unincorporated areas and to any premises under one ownership which is comprised of less than 640 acres in area located in Ellsworth County, Kansas.

3-3 DEFINITIONS.

3-3.1 Domestic Purpose means water used for drinking, cooking and washing purposes.

3-3.2 Private Water Supply means a water supply for domestic purposes which is provided and used by no more than one family in a single structure which is designed or intended for occupancy by one family only.

3-3.3 Public Water Supply means a system that has at least ten (10) service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. (K.S.A. 65-162a)

3-3.4 Semi-Public Water Supply means a water supply system that has from two to nine service connections being used.

3-4 REQUIREMENTS FOR SEMI-PUBLIC WATER SUPPLIES.

3-4.1 Permit to Construct. No person shall develop any semi-public water supply subject to regulations of this Code until they have obtained a permit from the Administrative Agency.

3-4.2 Minimum Water Testing Standards for Semi-Public Water Supplies. Semi-public water supplies shall be tested semi-annually for total coliform or fecal coliform or both, annually for nitrate, and annually for sodium. Results of the testing shall be submitted to the Administrative Agency. Testing shall be done by a state-approved lab. The

Administrative Agency shall reserve the right to require further tests if, in their opinion, a potential exists for other contamination.

- 3-4.3 Approval of Plans.** No person shall construct, after adoption of this Code, any semi-public water on any property subject to the provisions of this Code until the plans and specifications have been submitted to, and approved in writing by the Administrative Agency.

3-5 REQUIREMENTS FOR PRIVATE WATER SUPPLIES.

- 3-5.1 Permit.** No person shall develop any private water supply subject to regulations of this Code until a permit has been obtained from the Administrative Agency.

- 3-5.2 Approved Plans.** No permit to develop a private water supply subject to the regulations of this code shall be issued until the plans have been approved by the Administrative Agency.

3-6 COMPLIANCE IN REAL PROPERTY OR CONVEYANCE.

- 3-6.1 Documentation.** No sale or conveyance of any real property shall be completed until the seller provides documented proof that all abandoned wells on said real property are plugged and dug wells on said real property are plugged in accordance with K.A.R. 28-30-1 et seq. as amended.

3-7 MINIMUM STANDARDS FOR GROUNDWATER SUPPLIES

- 3.7-1 Location.** Private and Semi-Public Water Supply wells used as sources of water for water supplies shall be separated from the specified sources of pollution by distances equal to or greater than those shown in Table 3-1. Such distances may be increased by the Administrative Agency to provide assurance that the well will not be contaminated.

Table 3-1

Source of Pollution	Minimum Separation
Subsurface absorption field for septic tank effluent	50'
Pit privy	50'
Septic Tank	50'
Barnyards, stables, manure piles, animals pens, etc.	50'
Streams, lakes and ponds	50'
Sewer lines, not constructed of cast iron or other equally tight construction .	50'
Sewer lines, constructed of cast iron or other equally tight construction . . .	25'
Lagoons.	50'
Property lines	25'
Petroleum and fertilizer	50'
House/outbuildings	25'

- 3-7.2 Construction.** The enforcement of this section of the sanitary code shall be regulated in accordance with K.A.R. 28-30-1 et seq. Recommended standards for design,

construction and location; and practices consistent with current approved technology shall be followed.

3-8 REQUIREMENTS FOR SUBDIVISION DEVELOPMENT.

After adoption of this code, no person shall develop any subdivision until the plans and specification for water supply provision and/or protection have been approved by the Administrative Agency.

3-9 WATERWELL PUMP INSTALLER AND MAINTENANCE LICENSURE.

3-9.1 License Required. No person shall repair or install a waterwell pump unless they hold a valid Waterwell Pump Installer and Maintenance License from the Administrative Agency. Property owners are exempt from the license, but not exempt from provisions of the code.

3-9.2 Application, Class, and Examination. Every person wishing to obtain a Waterwell Pump Installer and Maintenance License shall make application for a license at the Administrative Agency. The applicant will be notified of the next class and exam date. A fee shall be paid to the Administrative Agency for the Waterwell Pump Installer and Maintenance Exam. A license shall be issued upon completion of the exam with a score of 70% or higher.

3-9.3 License Fee. An annual fee shall be paid to the Administrative Agency by January 1 of each year, following the initial issuance of the Waterwell Pump Installer and Maintenance License.

3-9.4 Continuing Education. A requirement for continuing education is set for extended renewal of a Waterwell Pump Installer and Maintenance License. The Licensee must complete at least 2 hours of continuing education every five years starting at the time the first license is issued. The continuing education must be pertinent and related to waterwells. Continuing Education Units (CEU's) must be submitted to the Administrative Agency.

3-9.5 Liability Requirements. Before a license can be issued, the applicant must provide a Certificate of Insurance for liability coverage.

3-9.6 Revocation of License. A license issued under the provisions of this Chapter may be revoked for violation of any of the terms of this Code. No license shall be revoked until the license holder has been given notice in writing of the violation and reasonable opportunity to comply with the provisions of this Code.

3-9.7 Reciprocity With Other Licensing Programs. Licensure in other counties shall be reciprocal with licensure in Ellsworth County if training, exam, and passing scores are equal to or greater than those required for licensure in Ellsworth County.

3-9.8 Contracting With Unlicensed Person Prohibited. No person responsible for operating a private well or semi-public well shall contract, or offer to contract, with any person for services unless that person holds a valid permit or license to provide such service from the Administrative Agency.